

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

File No. 27-CV-23-9758

City of Long Lake,

CASE TYPE:

Plaintiff,

v.

**DECLARATION OF MAYOR
CHARLIE MINER**

City of Orono,

Defendant.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Charlie Miner, declare as follows:

1. I am the Mayor of the City of Long Lake. I have personal knowledge of the facts contained herein and am competent to testify to them.

2. In the days following the July 14, 2023 Order, I have kept myself informed of the actions of the Orono City Council, Orono Mayor Dennis Walsh, and the Orono Fire Chief Van Eyll.

3. On or about July 18, 2023, I became aware that Orono Mayor Walsh posted his legal counsel's strategy memorandum on social media. A true and accurate copy of the "Nextdoor" posts by Mayor Walsh are attached hereto as **Exhibit A**.

4. On or about September 25, 2023, I became aware of a text message that Orono Fire Chief Van Eyll sent to a number of individuals, including active Long Lake firefighters, inviting them to attend the Orono Recruitment Open House on September 27, 2023. A true and accurate copy of the text message from Chief Van Eyll is attached hereto as **Exhibit B**.

5. This text message was sent to approximately seven current Long Lake firefighters.

6. On the evening of September 26, 2023, Long Lake firefighter Cole “Cody” Farley initially informed me that he received a phone call from Mayor Walsh that evening. I spoke with him the next day and he informed me, to the best of his recollection, that Mayor Walsh stated, “phone calls that have been happening” that were “slandorous, malicious, and smearing.” Mayor Walsh threatened Mr. Farley stating that he could be sued and “there are consequences to being involved in a lawsuit.”

7. On September 28, 2023, an Orono resident who attended the Orono Recruitment Open House on September 27, 2023 and recorded it, provided me with the recording.

8. I watched the roughly two-hour recording on September 28, 2023. It was clear to me that Chief Van Eyll and Orono plan on hiring Long Lake firefighters as part of the Orono Council consent agenda on October 9, 2023. At no time has Chief Van Eyll or any other Orono representative approached me or the Long Lake City Council for consent relative to recruiting and hiring Long Lake firefighters.

9. Further, Chief Van Eyll discussed Orono’s plans to construct a temporary structure on the Fire Station 2 property to house its trucks. He also mentioned “Orono” has walked the property with an architectural firm and has outlined plans to do an addition to the building by adding bays. To my knowledge, at no time has Chief Van Eyll or any other Orono employee approached me or the Long Lake City Council and identified this plan nor sought consent from the City of Long Lake to commence such construction activities during the term of the Fire Service Contract. It is apparent to me that Orono believes that commencing such construction activity is within Orono’s unilateral authority. I noted that Chief Van Eyll specifically mentioned that this

expansion was permitted so long as it does not interfere with Long Lake's ability to utilize or respond out of Fire Station 2.

10. On September 28, 2023, Long Lake Fire Chief Heiland forwarded me an email from Chief Van Eyll regarding "some issues" amongst the firefighters. A true and accurate copy of the email from Chief Van Eyll is attached hereto as **Exhibit C**.

11. On October 4, 2023, I responded to Chief Van Eyll explaining that those communications consisted of text message(s) between two friends that was taken out of context. A true and accurate copy of the email from myself to Chief Van Eyll is attached hereto as **Exhibit D**.

12. A true and accurate copy of the Orono City Council October 9, 2023 Agenda Item No. 10, "Authorization to Hire Paid-On-Call Firefighters" is attached hereto as **Exhibit E**.

13. A true and accurate copy of the Orono City Council October 9, 2023 Agenda Item No. 18, "Authorization to Hire Paid-On-Call Firefighter" is attached hereto as **Exhibit F**.

14. On October 10, 2023, I viewed the published recording of the Orono City Council meeting held on October 9, 2023. I observed that, at that meeting, the Orono City Council approved the hiring of Orono firefighters via three separately approved actions. These actions included the hiring of eight current Long Lake Fire Department members.

15. In viewing the October 9, 2023 Orono City Council meeting, I also observed that Orono Chief Van Eyll acknowledged before the Orono City Council that several of the hires were current LLFD members, and further admitted to knowing their present fire membership status based upon his communications with those members at multiple recruiting events and at other times both in person and via text messaging.

16. The statements made by the Orono Chief and the corresponding Orono City Council actions confirmed the suspicions of the City of Long Lake: that Orono has actively recruited and now hired several LLFD members.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Executed on October 13, 2023 in Hennepin County, Minnesota.

By: /s/Charlie Miner
Charlie Miner

4858-7838-4260, v. 1

EXHIBIT A

**Georgette Jabbour** → **Local Area Politics**

Bayside • 23 hr ago •

HIGHLIGHT QUOTE FROM THE INJUNCTION...

"The Court finds that Orono's goal of setting up its own fire department as soon as possible, without waiting for the end of the contracts to compete for scarce firefighting resources with Long Lake, following decades in which the parties have worked cooperatively under a joint fire protection arrangement, poses a risk of irreparable harm to Long Lake."

~ Judge Miller



1



Like



7 Comments



Share

**Jan Page** • Long Lake Estates

Anyone who has experienced a house fire, or seen one, can appreciate this. Community fire departments work together-"joint fire protection arrangement".

6h

Like

Reply

Share



+1

3

**Vicki A.** • Minnetonka Beach

@Jan yes, it's mutual aid and having an independent dept won't change that.

3h

Like

Reply

Share

**Barbara L Schmidt** • Bayside

How many millions of taxpayer dollars is this fictitious fire department going to cost us EXTRA? Estimates are ten(s) of millions HIGHER than going with a fire district. Funny how some people who don't even live in Orono want us to bleed \$ for something the citizens do not want.

3h

Like

Reply

Share

**Denny Walsh** • Saga Hill

Orono Fire continues to move ahead despite the obstructionist behavior of Long Lake

2h

Like

Reply

Share

**Barbara L Schmidt** • Bayside

Appeal away sir - the injunction stands...

1h

Like

Reply

Share

**Denny Walsh** • Saga Hill

@Barbara I don't think you understand. We don't need to appeal anything. There is nothing to appeal because we have not violated anything in the contract . Thanks for bringing it up

1h

Like

Reply

Share

**Barbara L Schmidt** • Bayside

Denny haha - you can say whatever you want but the court rules :) and I'm grabbing screenshots.

1h

Like

Reply

Share



Add a comment...

Paul Donald Reuvers
Direct: 952.548.7205
paul@iversonlaw.com

DATE: July 18, 2023

TO: Mayor and City Council

CC: City Staff / City Attorney / LMCIT

FROM: Paul Donald Reuvers

RE: *City of Long Lake v. City of Orono*
Court File No. 27-CV-23-9758

My law firm has been retained through the League of Minnesota Cities Insurance Trust to represent the City of Orono ("Orono") in this litigation. This memorandum will update you on the status of this litigation and provide our preliminary analysis of the legal issues and recommendations moving forward.

The City of Long Lake ("Long Lake") sued Orono, asserting various breach of contract claims. In summary, we do not believe any of the claims have any legal merit, and we view this litigation as more politically motivated. It is our legal opinion there has been no breach of contract and Orono's decision to establish its own fire department has been open and transparent.

Long Lake sought and the district court granted Long Lake's Motion for a Temporary Injunction on July 14, 2023, which essentially maintains the status quo of the relationships between Orono and Long Lake during the pendency of this litigation. Importantly, the court made clear its order was not a decision on the merits of the case, and that will be sorted out in the litigation process. Instead, the court directed the parties to engage in mediation to avoid the cost and expense of litigation between two municipalities. We have agreed to utilize the services of retired Minnesota Supreme Court Chief Justice Kathleen Blatz to act as a mediator. We are coordinating with Long Lake's counsel to set up mediation and hope to do so in the next 30-60 days.

It is also significant the district court did not find Orono violated any of its contractual obligations. Quite frankly, it clearly has not. Orono has repeatedly confirmed it will abide by its contractual obligations, while taking the reasonable steps to construct and establish its own fire department. I want to make clear that despite the litigation and current order from the district court, Orono will be able to continue to hire personnel, acquire equipment, and take the steps necessary to establish its own fire department to serve this community, while vigorously defending this litigation initiated by Long Lake.

July 18, 2023

Page 2

Please also keep in mind the court largely accepted Long Lake's arguments for the temporary injunction which, putting it charitably, are inaccurate in many respects. We will have the opportunity to correct the record, if necessary, if this matter does not resolve at mediation. For example, there was nothing illegal concerning Orono's acquisition of a ladder truck. Orono is entitled to assemble the necessary equipment to outfit its fire department (and will continue to be able to do so). Even after acquiring the ladder truck, Orono offered to allow Long Lake to utilize the ladder truck, if it did not want to acquire its own ladder truck. This demonstrates Orono is not attempting to undermine the Long Lake Fire Department ("LLFD"). To the contrary, Orono is on record that it will ensure the LLFD has the equipment necessary to service the needs of the community.

As to hiring Chief Van Eyll, Orono went through an open and public process, no different than any other community or public employer. It should be no surprise the Chief, who was most familiar with the community, was the top choice. The decision to accept the chief position was his own decision to accept as he can choose where he wants to work, just like any other prospective employee. Similarly, the City may choose to hire any LLFD firefighter who applies for a position, but pursuant to the order may not proactively solicit their employment. Finally, the Minnesota Legislature recently passed a law this past session that bans non-compete agreements between employers and employees, so any argument LLFD firefighters cannot choose where they work would be a violation of existing state law.

As to Long Lake's complaints concerning capital budgets, Orono is contractually authorized to reject a proposed budget, and Long Lake is as well. More to the point, there is a process in place if either Orono or Long Lake does not approve a proposed capital budget. It would be financially irresponsible for Orono to approve budgets that are not economically realistic. Taxpayers should expect their elected officials will critically review any proposed budget, and the Court cannot usurp that legislative function. The City Council has made clear it is committed to providing the LLFD the equipment it needs and will continue to review capital purchase proposals on a case-by-case basis.

As to the firefighters' pension programs, there is also no evidence of any wrongdoing on the part of the City. Rather, it is an undisputed fact that representatives from Orono and Long Lake jointly met with legislators in 2023 to see if firefighters from the LLFD could transfer their pension dollars to Orono on an individual basis if they decided to work for the Orono fire department. This was done for the benefit of any firefighters who may choose to make the career switch to keep their years of pension vesting without interruption. In summary, Long Lake's characterization of this legislative effort is a false narrative.

1:08



Denny Walsh →  Local Area Polit...

Saga Hill



July 18, 2023

Page 2

I look forward to discussing this litigation with you further. If this matter does not resolve at mediation, I recommend a vigorous defense against the meritless claims asserted in this litigation. Thank you.

EXHIBIT B

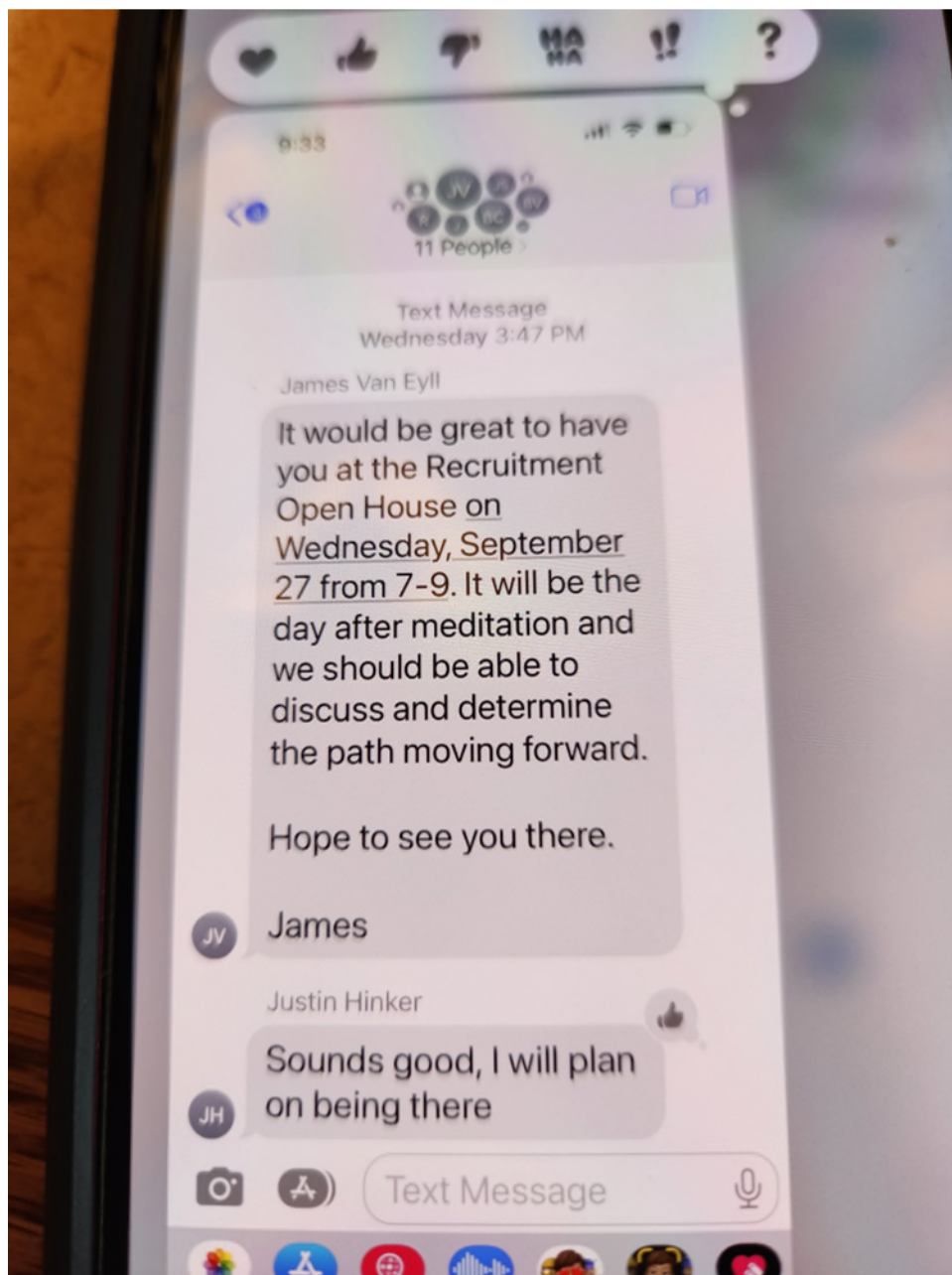


EXHIBIT C



Charlie Miner <cminer@longlakemn.gov>

issues

Mike Heiland <mheiland@longlakemn.gov>
To: Charlie Miner <cminer@longlakemn.gov>

Thu, Sep 28, 2023 at 2:59 PM

Chief Heiland,

I hope you are doing well. I left you a message yesterday and haven't received a phone call back. I wanted to make you aware and discuss possible solutions to some issues that I've learned about amongst some of the firefighters.

I have been receiving reports from some of our potential recruits that they are being ostracized and called "traitors" by fellow firefighter and fire fighter leaders for expressing an interested in serving the community as Orono firefighters. One of our potential recruits who was on LLFD but currently isn't reported to me that a chief level LLFD officer reached out to him to let him know he had suspect judgement.

These comments and the treatment of the firefighters is becoming a hinderance to ability to our ability to build a fire department and the undoubtedly the esprit de corps of the LLFD which at the end of the day does not serve the public's interest..

Sincerely,



James Van Eyll, Fire Chief

ORONO FIRE DEPARTMENT



Mike Heiland, Fire Chief
LONG LAKE FIRE DEPARTMENT

mheiland@longlakemn.gov

952.473.9701 ext. 1

Station 1: 340 Willow Drive, Long Lake, MN 55356

Station 2: 3770 Shoreline Drive, Orono, MN 55391

www.LONGLAKEFIRE.org



image001.png
10K

EXHIBIT D

From: **Charlie Miner** <cminer@longlakemn.gov>
Date: Wed, Oct 4, 2023 at 9:27 PM
Subject: Future Concerns Regarding City of Long Lake/LLFD Staff
To: James VanEyll <jvaneyll@oronomn.gov>
Cc: Adam Edwards <aedwards@oronomn.gov>, Scott Weske <sweske@longlakemn.gov>

Chief Van Eyll,

Chief Heiland informed me of concerns you posed to him regarding communications by a member of the LLFD to a potential candidate for employment in the Orono Fire Department. In following up, I have learned that those communications consisted of a text message(s) between two friends. My understanding is that since your message to Chief Heiland, the LLFD member who was involved in exchanging the text message(s) met with you, and you acknowledged that the text messages had been taken out of context. I also understand that you would relay the

misunderstanding to Mayor Walsh, who contacted the LLFD member on September 26th and astonishingly threatened a lawsuit against the LLFD member regarding the communications.

The underlying activity by Orono that has created these issues is the very concern we expressed to the Court in our motion for a temporary injunction and why the court ordered Orono that it is prohibited from recruiting or hiring Long Lake firefighters. If Orono had followed the Order, there would be no issues. We expect Orono to follow the Court's Order.

If there are further concerns regarding the conduct of an employee of the City of Long Lake, I respectfully ask that you, the mayor, or anyone else from Orono claiming such an issue raise the issue(s) with either City Administrator Weske or myself. Orono's actions over the last many months are causing significant conflict with the relationship between the two cities and members of our community serving as firefighters, and we would like to ensure that relations are kept as professional as possible under the circumstances.

Respectfully,

--

Charlie Miner, Mayor

City of Long Lake

Email / cminer@longlakemn.gov

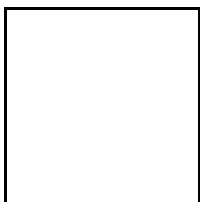


EXHIBIT E

AGENDA ITEM**Item No.:** 10**Date:** October 9, 2023**Item Description:** Authorization to Hire Paid-On-Call Firefighters**Presenter:** James Van Eyll
Fire Chief**Agenda Section:** Consent Agenda

1. Purpose. The purpose of this action item is to gain approval to hire Paid-On-Call Firefighters for response at Station 2.

2. Background. The Orono Fire Department is currently seeking paid-on-call firefighters to cover our Station 2 call area.

3. Selection Process. The selection process for the position involved advertising the position, application screening, and an interview. The interview was conducted by the Fire Chief and other city employees. The applicant must successfully complete a Psychological Exam, a Physical (Pre-employment medical) exam and a probationary period. All applicants will have to pass a background check performed by the Orono Police Department. If the applicant is serving as a firefighter covering the City of Orono, then we waved the psychological and physical exams.

4. Recommended Candidates. Jeff Krahl, Ryan Kanive, JB Seals, Justin Hinker, Mike Johnsrud, Ben Carlson and Tom Aldrich have experience as a firefighter with another department. All have passed Firefighter 1 and 2 and are either EMT or EMR.

All are excited to become charter members of the Orono Fire Department and look forward to creating the best department and relief association.

5. Recommended Compensation. I recommend Jeff Krahl with 19 years serving Orono, Ryan Kanive with 13 years serving Orono, JB Seals with 5 years serving Orono, Justin Hinker with 2 years serving Orono, Mike Johnsrud with 2 years serving Orono, Ben Carlson with 2 years serving Orono and Tom Aldrich with 34 years serving Orono conditional job offers as paid-on-call firefighters with an effective start date of October 10, 2023 for limited administrative time and duties. Firefighter training and other such duties will begin on January 1, 2024

- a. **Pay.** Starting rate of \$16.00/hour.
- b. **Benefits:** Relief Association to be determined
- c. **Conditions:** Passing background check

COUNCIL ACTION REQUESTED

Motion to approve the conditional job offers to Jeff Krahl, Ryan Kanive, JB Seals, Justin Hinker, Mike Johnsrud, Ben Carlson and Tom Aldrich as a paid-on-call firefighter at the rate of \$16.00 per hour with a start date of October 10, 2023.

Prepared By: JVE
By:

Reviewed By: NJD

Approved

EXHIBIT F

AGENDA ITEM**Item No.:** 18**Date:** October 9, 2023**Item Description:** Authorization to Hire Paid-On-Call Firefighter**Presenter:** James Van Eyll
Fire Chief**Agenda Section:** Fire Report

1. Purpose. The purpose of this action item is to gain approval to hire Paid-On-Call Firefighter for response at Station 2.

2. Background. The Orono Fire Department is currently seeking paid-on-call firefighters to cover our Station 2 call area.

3. Selection Process. The selection process for the position involved advertising the position, application screening, and an interview. The interview was conducted by the Fire Chief and other city employees. The applicant must successfully complete a Psychological Exam, a Physical (Pre-employment medical) exam and a probationary period. All applicants will have to pass a background check performed by the Orono Police Department. If the applicant is serving as a firefighter covering the City of Orono, then we waved the psychological and physical exams.

4. Recommended Candidates. Ben Veach has experience as a firefighter with another department. He has passed Firefighter 1 and 2 and EMR. He is excited to become charter member of the Orono Fire Department and looks forward to creating the best department and relief association.

5. Recommended Compensation. I recommend Ben Veach with 6 years serving Orono for a conditional job offer as a paid-on-call firefighter with an effective start date of October 10, 2023 for limited administrative time and duties. Firefighter training and other such duties will begin on or after January 1, 2024

- a. **Pay.** Starting rate of \$16.00/hour.
- b. **Benefits:** Relief Association to be determined
- c. **Conditions:** Passing background check

COUNCIL ACTION REQUESTED

Motion to approve the conditional job offer to Ben Veach as a paid-on-call firefighter at the rate of \$16.00 per hour with a start date of October 10, 2023.